

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDGAR AGUILERA ESPINOSA,

Defendant.

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CASE NO. 8:03CR564

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Report and Recommendation (Filing No. 95) issued by Magistrate Judge Thomas D. Thalken recommending that the Defendant's motion to suppress (Filing No. 87) be granted. No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant seeks an order suppressing evidence and statements obtained as a result of the Defendant's arrest and the search of his bedroom on October 10, 2002. The Assistant United States Attorney represented that she does not intend to offer the evidence or statements in question during her case in chief. Judge Thalken determined that because the government did not present evidence and meet its burden of proof at the suppression hearing that the motion should be granted.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has considered the government's response (Filing No. 93) and the transcript (Filing No. 97). Because Judge Thalken fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 95) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 87) is granted.

DATED this 6th day of September, 2005.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge